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4 **UNITED STATES DISTRICT COURT**  
5 **EASTERN DISTRICT OF CALIFORNIA**  
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7 ANTHONY DEAN SLAMA,

CASE NO. 1:08-cv-00810-AWI-SKO

8 Plaintiff,

**ORDER APPOINTING LIMITED  
VOLUNTARY COUNSEL FOR PLAINTIFF**

9 v.

(Doc. 141)

10  
11 CITY OF MADERA, et al.,

**ORDER VACATING THE PRETRIAL  
CONFERENCE AND SETTING A  
SCHEDULING CONFERENCE**

12 Defendants.  
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15 **I. INTRODUCTION AND BACKGROUND**

16 Plaintiff Anthony Dean Slama ("Plaintiff") is a state prisoner proceeding pro se and in forma  
17 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On September 12, 2011, the Court  
18 granted Plaintiff's motion for reconsideration, re-opened Plaintiff's case, and vacated the prior  
19 summary judgment orders. (Doc. 74.) On June 26, 2012, the Court denied in part, and granted in  
20 part, Defendants' motions for summary judgment. (Doc. 122.) Accordingly, the case was set for  
21 trial. (Doc. 132.)

22 On January 22, 2013, Plaintiff filed a motion to appoint counsel. (Doc. 141.) For the reasons  
23 set forth below, Plaintiff's motion is GRANTED, the pretrial and trial dates are VACATED, and a  
24 scheduling conference is SET for the purposes of re-scheduling the pretrial conference and trial  
25 dates.

26 **II. DISCUSSION**

27 On January 22, 2013, Plaintiff requested the appointment of counsel for the limited purpose  
28 of trial. (Doc. 141.) The Court notes that Defendants oppose the appointment of counsel on behalf

1 of Plaintiff. (Doc. 148.) Nevertheless, upon review of the record, the history of this particular case,  
2 and in light of the difficulties an incarcerated pro se litigant will likely face at trial, the Court deems  
3 it appropriate to secure counsel for Plaintiff in this case for the limited purpose of trial. 28 U.S.C.  
4 § 1915(e)(1); *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997). Further, Sujean Park, the  
5 Court's Pro Bono Program Director, was able to obtain voluntary counsel for Plaintiff.

6 As such, Plaintiff's motion for appointment of counsel is GRANTED. Andrew J. Fishkin,  
7 Esq., has been selected from the Court's pro bono attorney panel to represent Plaintiff, and he has  
8 accepted the appointment.

9 To allow Mr. Fishkin an opportunity to review the Plaintiff's record and due to Senior District  
10 Judge Anthony W. Ishii's heavily impacted calendar and upcoming trials<sup>1</sup>, the pretrial conference set  
11 for February 4, 2013, and the trial set for March 5, 2013, are VACATED.

12 The Court SETS a scheduling conference before Magistrate Judge Sheila K. Oberto for  
13 March 12, 2013, at 10:30 a.m., for the purpose of setting new pretrial conference and trial dates. The  
14 parties are ordered to meet and confer and file a joint proposed schedule one (1) full week prior to  
15 the scheduling conference. Due to Judge Ishii's heavily impacted trial calendar, the parties should  
16 be prepared to propose multiple pretrial conference and trial dates. Proposed pretrial conference  
17 dates should be set for a Wednesday, Thursday, or Friday, and proposed trial dates should begin at  
18 least eight (8) weeks thereafter on a Tuesday.<sup>2</sup>

### 19 III. CONCLUSION AND ORDER

20 Accordingly, IT IS HEREBY ORDERED that:

- 21 1. Plaintiff's motion to appoint counsel is GRANTED;
- 22 2. Andrew J. Fishkin, Esq., is appointed as counsel in the above entitled matter for the  
23 limited purpose of preparing for and presenting the case at trial;

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25 <sup>1</sup> See Doc. 142, informing the parties that District Judge Ishii has multiple trials currently set for March 5, 2013,  
and that a lengthy products liability trial is set to begin on February 26, 2013.

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27 <sup>2</sup> The Court notes that Plaintiff recently represented that he did not wish to consent to Magistrate Judge  
28 jurisdiction. (Doc. 146.) The parties are reminded that, if they consent, Magistrate Judge Oberto will be able to set firm  
pretrial conference and trial dates, while District Judge Ishii has indicated that he cannot guarantee that the dates set will  
not be continued due to his heavily impacted trial calendar. As such, the Court requests that the parties again consider  
consenting to Magistrate Judge jurisdiction for all further proceedings in this matter, including trial.

- 1           3.     Mr. Fishkin shall notify Sujean Park, the Court's Pro Bono Program Director, at  
2                     (916) 930-4278, or via email at spark@caed.uscourts.gov, if he has any questions  
3                     related to the appointment;
- 4           4.     The pretrial conference date of February 4, 2013, and the trial date of March 5, 2013,  
5                     are VACATED;
- 6           5.     A scheduling conference is SET for March 12, 2013, at 10:30 a.m., before Magistrate  
7                     Judge Sheila K. Oberto. The parties may appear telephonically; all parties intending  
8                     to appear telephonically shall coordinate with each other one conference call to the  
9                     Court at (559) 499-5790 at the appointed time;
- 10          6.     At least one (1) week prior to the scheduling conference, the parties *shall file* a joint  
11                     proposed schedule, proposing pretrial conference and trial dates; and
- 12          7.     The Clerk of the Court is directed to serve a copy of this order upon Andrew J.  
13                     Fishkin, Law Offices of Andrew J. Fishkin PC, 235 H Street, Bakersfield, California  
14                     93304.

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16 IT IS SO ORDERED.

17 **Dated:** January 30, 2013

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE